

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF ILLINOIS
BENTON DIVISION**

RICHARD SCOTT)
)
Plaintiff,)
)
vs.) No.10-CV-25-DRH
)
PORTFOLIO RECOVERY ASSOCIATES,)
LLC)
)
Defendant.)

PLAINTIFF'S COMPLAINT AND DEMAND FOR JURY TRIAL

COMES NOW the Plaintiff, RICHARD SCOTT ("Plaintiff"), by and through his attorneys, KROHN & MOSS, LTD., and for Plaintiff's Complaint against PORTFOLIO RECOVERY ASSOCIATES, LLC ("Defendant"), alleges and affirmatively states as follows:

INTRODUCTION

1. Count I of Plaintiff's Complaint is based on the Fair Debt Collection Practices Act, *15 U.S.C. 1692 et seq.* (FDCPA).

JURISDICTION AND VENUE

2. Jurisdiction of this court arises pursuant to 15 U.S.C. 1692k(d), which states that such actions may be brought and heard before "any appropriate United States district court without regard to the amount in controversy."

3. Because Defendant conducts business in the state of Illinois, personal jurisdiction is established.

4. Venue is proper pursuant to 28 U.S.C. 1391(b)(2).

5. Declaratory relief is available pursuant to 28 U.S.C. 2201 and 2202.

PARTIES

VERIFIED COMPLAINT

6. Plaintiff is a natural person who resides in DuQuoin, Perry County, Illinois and is obligated or allegedly obligated to pay a debt and is a "consumer" as that term is defined by 15 U.S.C. 1692a(3).

7. Plaintiff is informed and believes, and thereon alleges, that Defendant is a national company headquartered in Norfolk, Virginia.

8. Plaintiff is informed and believes, and thereon alleges, that Defendant uses instrumentalities of interstate commerce or the mails in any business the principal purpose of which is the collection of any debts, or who regularly collects or attempts to collect, directly or indirectly, debts owed or due or asserted to be owed or due another and is a "debt collector" as that term is defined by 15 U.S.C. § 1692a(6).

FACTUAL ALLEGATIONS

9. Defendant has constantly and continuously places collection calls to Plaintiff seeking and demanding payment for an alleged debt (see Plaintiff's call-log attached as Exhibit A).

10. Defendant calls Plaintiff at 618-357-1233.

11. Defendant calls Plaintiff from 800-772-1413, 866-940-7640, and 757-961-3548 (see Exhibit A).

12. Defendant calls and hangs up without leaving voicemail messages.

COUNT I **DEFENDANT VIOLATED THE FAIR DEBT COLLECTION PRACTICES ACT,** **(FDCPA), 15 U.S.C. § 1692 et seq.**

13. Plaintiff repeats, realleges and incorporates by reference all of the foregoing paragraphs.

14. Defendant **violated the FDCPA**. Defendant's violations include, but are not limited to the following:

a). Defendant violated §1692c(a)(1) of the FDCPA by contacting Plaintiff at a time and place known to be inconvenient.

b). Defendant violated §1692d of the FDCPA by engaging in conduct the natural consequence of which is to harass, oppress, and abuse Plaintiff because Defendant calls Plaintiff and hangs up without leaving voicemail messages.

c). Defendant violated §1692d(5) of the FDCPA by causing the phone to ring repeatedly with the intent to annoy, abuse, and harass the Plaintiff.

d). Defendant violated §1692d(6) of the FDCPA by placing telephone calls without disclosing the callers identity because Defendant calls Plaintiff and hangs up without leaving voicemail messages.

e). Defendant violated §1692e(10) of the FDCPA by engaging in deceptive means in an attempt to collect a debt because Defendant calls Plaintiff and hangs up without leaving voicemail messages.

f). Defendant violated §1692e(11) of the FDCPA by failing to disclose in subsequent communications that the call is from a debt collector because Defendant calls Plaintiff and hangs up without leaving voicemail messages.

WHEREFORE, Plaintiff respectfully prays that judgment be entered against the Defendant for the following:

15. Declaratory judgment that the Defendant's conduct violated the FDCPA.
16. Actual damages.
17. Statutory damages of \$1,000.00 pursuant to the FDCPA, 15 U.S.C. 1692k.
18. Costs and reasonable attorney's fees pursuant to the FDCPA, 15 U.S.C. 1692k.
19. Any other relief that this court deems to be just and proper.

RESPECTFULLY SUBMITTED,

BY: /s/ Gregory Moss

Gregory Moss
KROHN & MOSS, LTD.
120 W. Madison St., 10th Floor
Chicago, IL 60602
(312) 578-9428
Attorney for Plaintiff

DEMAND FOR JURY TRIAL

PLEASE TAKE NOTICE that Plaintiff, RICHARD SCOTT, hereby demands trial by jury in this action.

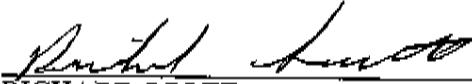
VERIFICATION OF COMPLAINT AND CERTIFICATION

(STATE OF ILLINOIS)

Plaintiff, RICHARD SCOTT, says as follows:

1. I am a Plaintiff in this civil proceeding.
2. I have read the above-entitled civil Complaint prepared by my attorneys and I believe that all of the facts contained in it are true, to the best of my knowledge, information and belief formed after reasonable inquiry.
3. I believe that this civil Complaint is well grounded in fact and warranted by existing law or by a good faith argument for the extension, modification or reversal of existing law.
4. I believe that this civil Complaint is not interposed for any improper purpose, such as to harass any Defendant(s), cause unnecessary delay to any Defendant(s), or create a needless increase in the cost of litigation to any Defendant(s), named in the Complaint.
5. I have filed this Complaint in good faith and solely for the purposes set forth in it.
6. Each and every exhibit I have provided to my attorneys which has been attached to this Complaint is a true and correct copy of the original.
7. Except for clearly indicated redactions made by my attorneys where appropriate, I have not altered, changed, modified or fabricated these exhibits, except that some of the attached exhibits may contain some of my own handwritten notations.

Pursuant to 28 U.S.C. § 1746(2), I, RICHARD SCOTT, hereby declare (or certify, verify or state) under penalty of perjury that the foregoing is true and correct.

Dated: 12-29-09

RICHARD SCOTT,
Plaintiff

EXHIBIT A

RICHARD SCOTT v. PORTFOLIO RECOVERY ASSOCIATE, LLC

The most recent calls received on (618-357-1233) are:

800-772-1413

Dec.16, 9:47am

Dec 15, 5:11pm

Dec. 7, 8:08pm

Dec. 4, 9:58am

Nov. 30, 11:32am

866-940-7640

Dec. 15, 5:02pm

Dec. 15, 11:13am

757-961-3548

Dec. 21, 9:35am (Left message)